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In re Application of :  
HERVIEU, Guillaume Jean, et al. :  
Application No.: 09/980,350 :  
PCT No.: PCT/GB00/02107 :  
Int. Filing Date: 01 June 2000 :  
Priority Date: 01 June 1999 :  
Attorney Docket No.: P32320 :  
For: USE OF H-TREK-1 POLYPEPTIDES :  
AND POLYNUCLEOTIDES :  
ENCODING THEM :

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to applicants' "Communication," filed on 19 December 2002. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

**BACKGROUND**

On 01 June 2000, applicants filed international application PCT/GB00/02107. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 December 2000. A demand for international preliminary examination was filed 13 December 2000, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, 03 December 2001 (01 December 2001 was a Saturday).

On 30 November 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 30 January 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 15 November 2002, the Office mailed a Notification of Abandonment indicating that the application went abandoned for failure to respond to the Notification of Missing Requirements mailed 30 January 2002.

On 19 December 2002, applicants filed the instant petition under 37 CFR 1.181, accompanied by, *inter alia*, a postcard receipt and a declaration.

**DISCUSSION**

MPEP at section 503 states, in part:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

The 13 August 2002 postcard receipt lists, *inter alia*, the declaration. The postcard receipt is date stamped and indicates the applicants, the serial number and the title of the application.

The postcard receipt is adequate evidence the declaration was received on 13 August 2002.

The petition states that the letter and declaration are copies of those submitted on 13 August 2002 and the statement is signed by someone registered to practice before the office.

A review of the declaration reveals that it is in compliance with 37 CFR 1.497(a)-(b) and that applicants have satisfied the requirements under 35 U.S.C. §371.

The fees for the late filing of the oath or declaration and the fee for a five month extension of time will be charged to deposit account no. 19-2570, as authorized.

**CONCLUSION**

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment mailed 15 November 2002 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. §371(c) date is 13 August 2002.



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